



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 24 2008

Ronald W. Gore, Chief
Air Division
Alabama Department of
Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Dear Mr. Gore:

This correspondence is being sent to provide you with a final copy of the Environmental Protection Agency (EPA) Region 4 report, which was completed as a result of the EPA title V program evaluation of the Alabama Department of Environmental Management (ADEM) conducted on December 3 - 4, 2007, (see Enclosure). EPA has noted within the file, that per a conversation with Tim Owen of ADEM, that the draft report was reviewed but ADEM elected not to provide any comments or corrections to the draft. As such we are moving forward with finalizing the report. The purpose of this program review was to evaluate the status and the ability of ADEM to carry out the duties and responsibilities required to effectively run the title V program, as well as find out how EPA can best assist ADEM in meeting these commitments.

I would like to thank you and your staff for your cooperation throughout the evaluation. Your staff responded to the program questionnaire and provided all requested material in a timely and professional manner. In addition, I commend you on the performance your title V program. We appreciate the efforts of you and your staff to ensure that Alabama has effective air programs.

If you or your staff have any questions regarding the report, please do not hesitate to contact Randy Terry of the EPA Region 4 staff at (404) 562-9032.

Sincerely,

A handwritten signature in cursive script, reading "Carol H. Kemper for", is written over the typed name "Beverly H. Banister".

Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division

Enclosure

Alabama Department of Environmental Management Title V and New Source Review Program Review

The Alabama Department of Environmental Management (ADEM) initial program review was conducted February 8 -10, 2005, in Montgomery, Alabama, and is kept on file at the U.S. Environmental Protection Agency Region 4 (EPA) office in Atlanta, Ga. Based on the information gathered from the title V program evaluations and the implementation of new title V permit requirements, EPA committed to conduct a second round of title V program reviews for all state and local programs that had at least 20 title V major sources within their jurisdiction by the end of FY 2010.

The second program evaluation of the ADEM title V program was conducted December 3 – 4, 2007, in Montgomery, Alabama. Prior to EPA's arrival ADEM was provided with a list of seven title V sources, including two with compliance assurance monitoring (CAM) plans that EPA planned to review to as part of the program evaluation. An entrance interview between EPA and key staff of ADEM was conducted, where EPA explained the details that Region 4 would be addressing during their State office visit. The following parties attended the initial meeting: Randy Terry (EPA Region 4); Katy Forney (EPA Region 4); Gracy Danois (EPA Region 4); Brandi Jenkins (EPA Region 4); Larry Brown (ADEM); Tim Owen (ADEM); Doug Carr (ADEM); and Jeff Kitchens (ADEM).

Alabama Title V Program Review

Program Review

ADEM's organizational structure for air permitting resides at the central office in Montgomery. All title V permits are processed in the Montgomery office. ADEM's title V permitting jurisdiction covers all of Alabama except for Jefferson County and the City of Huntsville, which have their own permitting programs.

The headings in the title V portion of this report duplicate the headings in the title V program review questionnaire administered during the visit.

A. Resources and Internal Management Support

ADEM currently funds 69 title V full time equivalent (FTE) positions and 36 permit writer positions that work primarily with title V. Title V permit writers estimate their time allocation to be 30 percent writing permits, 60 percent enforcement of those permits, and 10 percent other activities. In order to adequately track time spent on title V and non-title V activities, ADEM employees must turn in bi-monthly time sheets that identify title V and non-title V activities. ADEM's permit writers generally have a workload of 11 permits per permit writer, although this number varies based on the complexity of the permit and the number of title V applications in-house for a particular industry category. Management is kept abreast of permit issuance with monthly status reports on specific projects and by checking the ADEM permitting database.

ADEM has experienced a reduced staff turnover rate since the initial program evaluation in 2005. The reduction is partially attributed to a pay scale adjustment that increased starting salaries and two cost of living adjustments for fiscal years (FY) 2007 and 2008. An additional cost of living adjustment is approved for FY 2009, further increasing ADEM salaries. ADEM has some flexibility in determining starting salaries for incoming employees. Based on work experience, ADEM can increase their starting salaries within the pay band. Title V applications are assigned to permit writers based on the industrial source category, so any staff turnover tends to create more of a localized impact on permit issuance in the affected industry category rather than a program wide impact. The competing priorities of New Source Review (NSR), enforcement, and non-title V sources have remained the largest internal roadblock to title V permit issuance from the perspective of resources and internal management support.

ADEM assess title V fees for each title V major source based on actual emissions for the previous calendar year and are due annually in October. The Alabama title V fee is increased 8 percent for FY08 to \$34.50 dollars per ton, based on actual emissions. ADEM anticipates title V revenue of \$8 million for the upcoming fiscal year based on emissions from FY06. Sources send their title V payment into a separate account established by ADEM's Fiscal Division to track title V revenue. ADEM's Fiscal Division also utilizes a separate accounting system to track title V expenses.

B. Public Participation

ADEM's current policy is to proceed to the 30 day public notice period once the permit is in a final draft form. ADEM does not have a State publication that it uses for publishing their public notices. The public notice is generally published in the nearest newspaper to the source with a daily publication. When a community near the source has a weekly newspaper, ADEM will usually publish the public notice in the weekly paper as well. On several occasions, ADEM has published the public notice in the daily paper in an adjacent state (Georgia). The range of costs to publish a public notice typically falls between 50 and 600 dollars. ADEM also maintains a mailing list to notify any persons interested in title V permits. Anyone interested in being on this mailing list can submit a request, by phone, email, or mail to ADEM, to be included. There is no fee charged for inclusion on the list. New names are listed within the week of the request. Persons on the mailing list receive a copy of the public notice. The notice, draft permit and the statement of basis (SOB) can be downloaded from ADEM's website, which is updated daily. ADEM's website includes information within each notice explaining where the public should go to view the documents and how to submit comments. Additionally, ADEM has added a document to their website entitled "Public Participation in the ADEM rulemaking and Permitting Process" to assist the public. ADEM's Office of Communication, Planning and Outreach acts as a liaison to the public. ADEM also has an environmental justice ombudsmen to assist in reaching out to specific communities.

C. Renewal Permits and File Review

ADEM has issued 100 percent of their initial title V permits and is currently working on issuing renewal permits. Full applications are required by ADEM for all renewals. From December 1, 2006 to November 30, 2007, ADEM issued 47 renewal permits. At the time of the program evaluation, ADEM had 70 renewal applications in-house to be processed with only three backlog permits. As part of their tracking system, ADEM tracks the number of permit applications that require CAM plans.

EPA conducted an administrative review of five ADEM title V permits and reviewed the CAM plans for three title V permits. The permit files selected included a cross section of sources across several industry sectors. Overall, ADEM's permit files contained most of the necessary components; however, two permit files did not contain EPA comments which had been provided to ADEM during the public comment periods nor did they contain ADEM's response to our comments. While we understand EPA's comments were submitted electronically and were stored electronically on the permit writer's computer, it is essential that any comments received as well as ADEM's response to comments be printed and kept in the hardcopy file. ADEM understood and agreed with EPA on this point. Additionally, the files did not contain the proof of publication for the public notices. We understand that these documents are routinely kept by ADEM's Permit Services Division. This practice is acceptable; however, EPA suggests that a note be made in each permit file for completeness and clarity. While the files contained a final hardcopy of the title V permit, the files did not contain a hardcopy of the draft permit. It is our understanding that the draft versions of the permits are stored electronically on a shared drive.

This practice is acceptable; however, EPA suggests that a note be made in each permit file for completeness and clarity.

As we noticed during the last program evaluation, the permit files continue to be difficult to review due to the individualized method of filing by permit writers. While we understand that part of the decisions made during the permitting process will rely on the personal experience and knowledge of the permit writers, these decisions should still be documented. This will not only help bring transparency of the process to the public and EPA, but will also assist permit writers that may take over the facilities in the future.

Overall, ADEM maintains the requirements for CAM in accordance with the provisions of Part 64. During the file review, some of the elements of the CAM plans were missing from the file and the permit writers had to answer some specific questions about the CAM requirements. EPA suggests that the permit writers ensure that all the justifications for the selected indicators and ranges are included in the statement of basis, as well as any monitoring that is considered presumptively acceptable. In addition, EPA suggests ADEM be mindful of the sources that were exempt from the provisions of CAM (see § 64.2(b)) due to applicability of Part 63 DDDDD (Boiler MACT). CAM applicability may need to be reassessed for these sources. EPA commends ADEM on their commitment to ensuring that all the permit writers understand the requirements of CAM and that the requirements are met. EPA will notify ADEM of any upcoming training opportunities on the revisions to Part 64.

D. Suggested Improvements

EPA continues to suggest that ADEM develop a written format to consistently organize the permit files and improve documentation of decision-making, even when it relies on personal knowledge and experience.

Conclusion

At the conclusion of the onsite portion of the title V program review, Region 4 personnel met with key ADEM officials to conduct an exit interview. During this exit interview Region 4 shared the findings of the review. Personnel in attendance from EPA Region 4 were Randy Terry, Katy Forney, Gracy Danois and Brandi Jenkins. ADEM officials in attendance included Tim Owen, Larry Brown, Doug Carr, and Jeff Kitchens.

Overall, ADEM has demonstrated to EPA that it is meeting the requirements of 40 CFR part 70 and EPA looks forward to working with ADEM in the future.